

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**FEDERAL TRADE COMMISSION and
COMMONWEALTH OF
PENNSYLVANIA**

Plaintiffs,

v.

**THOMAS JEFFERSON UNIVERSITY
and ALBERT EINSTEIN HEALTHCARE
NETWORK**

Defendants.

No. 2:20-cv-01113-GJP

**NON-PARTY PROSPECT MEDICAL HOLDINGS, INC.
MOTION FOR LEAVE TO FILE UNDER SEAL**

Prospect Medical Holdings, Inc., which is not a party in the above-captioned litigation (“Non-Party Prospect”), moves pursuant to Local Rule 5.1.5 and the Orders of this Court for Leave to File Under Seal its Motion for a Protective Order and Sanctions against Defendant Albert Einstein Healthcare Network (the “Motion”), along with the accompanying declaration of Carl W. Hittinger (the “Hittinger Declaration”) with Exhibits A-H (“Exhibits”).

The Court has entered an agreed to protective order in this matter, which allows the parties and non-parties to designate information as Confidential or Highly Confidential. (Dkt. 55.) Confidential information includes “(ii) research, development, technical, commercial, or financial information that the party has maintained as confidential;” and Highly Confidential information includes “(ii) specific plans for capacity expansion or reduction;” and “(vii) proprietary strategies or policies related to competition that have been kept confidential by the producing party, the disclosure of which poses a substantial risk of causing significant competitive injury to current or future commercial or financial interests of the producing party, or a party to the litigation.” (*Id.* ¶¶

1, 2.) Both Confidential and Highly Confidential designated information are not to be disclosed publicly. (*Id.* ¶¶ 10, 11.)

The Motion was necessitated by Einstein's continuing to seek confidential and proprietary financial and strategic information from Non-Party Prospect. All of the information sought by Einstein meets the definitions of Confidential or Highly Confidential in the Protective Order. In addition, Einstein's requests relate back to a statement in a declaration that the President of Prospect East Holding Inc, a subsidiary of Non-Party Prospect, provided to the Federal Trade Commission in its investigation of the merger (the "Declaration to the FTC"). That declaration, including the statement at issue, has been designated as Highly Confidential.

Non-Party Prospect respectfully moves for leave to file the Motion and the accompanying Declaration with Exhibits under seal as the Motion, the Hittinger Declaration and the Exhibits make extensive references information that is Confidential or Highly Confidential. Non-Party Prospect is a private company that keeps its financial and strategic information confidential and has not disclosed it to the public. The statement-at-issue in the Declaration to the FTC concerns Non-Party Prospects highly confidential and proprietary strategies and plans and is referenced throughout the Motion, the Hittinger Declaration and each of the Exhibits.

Accordingly, pursuant to the Protective Order, Non-Party Prospect seeks leave to file its Motion and the Hittinger Declaration with Exhibits under seal.

Dated July 29, 2020

By: /s/ Carl W. Hittinger
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CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of Non-Party Prospect's Motion for Leave to File Under Seal and Proposed Order to be served on counsel for the parties in this matter via ECF and E-Mail as follows:

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Dated: July 29, 2020

By: /s/ Carl W. Hittinger
Carl W. Hittinger

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[PROPOSED] ORDER

AND NOW, this ____ day of __, 2020, it is hereby ORDERED that Prospect Medical Holdings, Inc.’s (“Non-Party Prospect”) Motion for Leave to File Under Seal is GRANTED. Non-Party Prospect’s Motion for a Protective Order and Sanctions Against Albert Einstein Healthcare Network and the accompanying Declaration of Carl W. Hittinger with Exhibits shall be filed under seal.

BY THE COURT

HON. GERALD J. PAPPERT